



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

Cunninghame House,  
Irvine.

14 May 2015

### **Licensing Committee**

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 20 MAY 2015** at **10.00 a.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

**1. Declarations of Interest**

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

**2. Minutes**

The accuracy of the Minutes of the ordinary meeting of the Committee held on 25 March 2015 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

**3. Civic Government (Scotland) Act 1982: Licensing Matters**

Submit report by the Chief Executive on (a) Hearings to be determined; (b) applications for the grant or renewal of licences and permits; and (c) issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982 (copy enclosed).

- 4. Civic Government (Scotland) Act 1982: Taxi Fare Review**  
Submit report by the Chief Executive on the Taxi Fare Review (copy enclosed).
- 5. Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.**  
Submit report by the Chief Executive on Landlord Registration matters (copy enclosed).
- 6. Urgent Items**  
Any other items which the Chair considers to be urgent.

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## Licensing Committee

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Sederunt: Ronnie McNicol (Chair)  
Tom Marshall (Vice Chair)  
Robert Barr  
John Bruce  
Ian Clarkson  
Grace McLean  
Catherine McMillan  
John Easdale  
Donald Reid  
Vacancy

Chair:

Attending:

Apologies:

Meeting Ended:



Licensing Committee  
25 March 2015

**IRVINE, 25 March 2015** - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

Ronnie McNicol, Tom Marshall, Robert Barr, John Bruce, Ian Clarkson, Grace McLean, Catherine McMillan and Donald Reid.

**In Attendance**

C. Forsyth, Team Manager (Transportation) and C. Bateman, Development Officer; C. Reilly, Team Manager (Food/Health and Safety); W. O'Brien, Solicitor (Licensing), G. Kellas, Senior Clerical Assistant, A. Toal, Administrative Assistant and D. McCaw, Committee Services Officer (Chief Executive's Service).

**Also In Attendance**

Inspector Conway and Sergeant McIntosh (Police Scotland).

**Chair**

Councillor McNicol in the Chair.

**Apologies for Absence**

John Easdale.

**1. Chair's Remarks**

The Chair, in terms of Standing Order 9.3, agreed to vary the order of business to allow (a) consideration of Agenda Item 3 Civic Government (Scotland) Act 1982: Licensing Matters: Appendix A (Hearings) to take place in the following order, Hearings 2, 3, 4, 1 and 5; and (b) that consideration of Agenda Item 5 (Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8) take place immediately following consideration of Agenda Item 3 Civic Government (Scotland) Act 1982: Licensing Matters: Appendix A (Hearings).

**2. Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 16 and Section 5 of the Councillors Code of Conduct.

**3. Minutes**

The accuracy of the Minutes of the Ordinary Meeting of the Committee held on 4 March 2015 was confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

#### **4. Exclusion of the Public**

The Committee resolved in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public on the grounds indicated in terms of Paragraph 14 and 15 of Part 1 of Schedule 7A of the Act.

#### **5. Civic Government (Scotland) Act 1982: Licensing Matters**

Submitted report by the Chief Executive on (a) Hearings to be determined, and (b) applications for the grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982.

##### **Part A: Hearings**

##### **5.1 Market Operator's Licence MOL/057 - Continental Market Ltd**

The applicant, having been duly cited to attend, was not present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Representatives from Police Scotland, Roads and Environmental Health were also in attendance. The representatives from Police Scotland addressed the Committee on the terms of a letter dated 21 January 2015. Representatives from Roads and Environmental Health then addressed the Committee. The Committee had received copies of an email dated 24 March 2015 from the applicant.

##### **Decision**

The Committee unanimously agreed not to grant the application in connection with the proposed site at Brodick, Isle of Arran as the Committee had the opinion that the reason for refusal given in Civic Government (Scotland) Act, Schedule 1, Paragraph 5(3)(c) applied.

##### **5.2 Market Operator's Licence MOL/058 - Continental Market Ltd**

The applicant, having been duly cited to attend, was not present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Representatives from Police Scotland, Roads and Environmental Health were also in attendance. The representatives from Police Scotland addressed the Committee on the terms of a letter dated 21 January 2015. Representatives from Roads and Environmental Health then addressed the Committee. The Committee had received copies of an email dated 24 March 2015 from the applicant.

## **Decision**

The Committee unanimously agreed not to grant the application in connection with the proposed site at Dockhead Street, Saltcoats as the Committee had the opinion that the reason for refusal given in Civic Government (Scotland) Act, Schedule 1, Paragraph 5(3)(c) applied.

### **5.3 Market Operator's Licence MOL/059 - Continental Market Ltd**

The applicant, having been duly cited to attend, was not present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Representatives from Police Scotland, Roads and Environmental Health were also in attendance. The representatives from Police Scotland addressed the Committee on the terms of a letter dated 21 January 2015. Representatives from Roads and Environmental Health then addressed the Committee. The Committee had received copies of an email dated 24 March 2015 from the applicant.

After discussion, Councillor Marshall, seconded by Councillor Clarkson moved that the application in connection with the proposed site at Bridgegate, Irvine be granted for the first 3 markets applied for, each limited to a 5-day duration, but otherwise that the application for the other periods applied for be refused.

As an amendment, Councillor Barr, seconded by Councillor Bruce, moved that the application be refused.

On a division, there voted for the amendment 3 and for the motion 5 and the motion was declared carried.

## **Decision**

Accordingly, the Committee agreed (a) to grant the application in connection with the proposed site at Bridgegate, Irvine for 3 markets, each limited to a 5-day duration, for the dates 15-19 April, 10-14 June and 15-19 July 2015, from 9am until 7pm in each case, in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) to refuse the application in relation to the other periods applied for as the Committee had the opinion that the reason for refusal given in the Civic Government (Scotland) Act, Schedule 1, Paragraph 5(3)(c) applied.

#### **5.4 House in Multiple Occupation HMO/016 - Melissa Brown**

The applicant, having been duly cited to attend, was present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter, the Chair read out a written submission from the applicant on the issues raised and the applicant responded to questions.

#### **Decision**

The Committee unanimously agreed (a) to grant the application under Section 129(2)(a) of the Housing (Scotland) Act 2006, subject to the Council's standard conditions under Section 133(1); and (b) to specify the duration as 1 year 11 months in terms of Section 134(1)(b).

#### **5.5 Public Entertainment Licence PEL/239 - Kelburn Productions Ltd**

The applicant was represented by Mr. David Boyle, a Director of the Company.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland addressed the Committee on the terms of a letter dated 17 March 2015. The Committee had copies of a representation from a local resident. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

#### **Decision**

The Committee unanimously agreed to grant the application in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **6. Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8**

The Committee considered two cases which had first called at previous meetings.

#### **6.1 Application for Landlord Registration: Hugh Begbie**

The Committee considered (a) an application for Registration under Section 83; and (b) an application under Section 95 for revocation of the Notice issued earlier under Section 94 (commonly described as a 'Rent Penalty Notice').

The applicant and the Development Officer (Housing) were in attendance.

The Development Officer (Housing) provided an update on documentation which had not yet been received. The applicant addressed the Committee on the issues raised and responded to questions.



Councillor Marshall, seconded by Councillor McLean moved that, in the absence of all requested documentation, the applications be continued to the next meeting.

As an amendment, Councillor Reid, seconded by Councillor Clarkson, moved that the applications be continued but that delegated authority be given to the Solicitor (Licensing) to grant the applications on receipt of all the relevant paperwork.

On a division, there voted for the amendment 3 and for the motion 5 and the motion was declared carried.

Accordingly, the Committee agreed to continue consideration of the applications to the next meeting.

## **6.2 Jointly Registered Landlords: Allan Green and Amanda Green**

One of the Registered Landlords, was in attendance and provided an update on the current situation regarding one of the properties currently registered by them and the complaint addressed previously by the Committee.

The Committee agreed to take no further action with regard to this matter.

## **7. Civic Government (Scotland) Act 1982: Licensing Matters**

### **Part B: Applications for Licences and Renewal of Licences**

#### **7.1 BOL/015 (New) Kevin Blades**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

#### **7.2 TDL/01885 (New) Peter Brown**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

#### **7.3 TDL/01957 (New) Mathew Lamont**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

#### **7.4 TDL/01959 (New) Robert Motherwell**

The Committee unanimously agreed to grant the application in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

## **8. Internal Audit: Reporting of Licence Enforcement**

Submitted report by the Chief Executive advising the Committee on progress with recommended actions arising from the routine review of the Licensing Section by Internal Audit.

All actions have been completed as detailed in the report with the exception of the updating of the Scheme of Delegation which was in progress.

Internal Audit also recommended that regular reports on compliance inspections be presented to future meetings of the Licensing Committee. The Solicitor (Licensing) advised that the Enforcement Officer had subsequently left the Council and that the job would be advertised and future reports would be presented to the Committee for their information.

There was discussion on the remit of the part-time position of Enforcement Officer within the Council and links to the work of the Licensing Standards Officer appointed under the Licensing (Scotland) Act 2005.

The Committee unanimously agreed (a) that representations be made to the Chief Executive, on behalf of the Licensing Committee, to review the hours of the Enforcement Officer post to take account of the dual role capacity included within the role profile with regard to working with the Licensing Standards Officer; and (b) otherwise to note the report.

## **9. Urgent Items**

The Chair agreed that the following items of business be considered as a matter of urgency to allow the matters to be actioned without delay.

### **9.1 TL/067, TL/041, TL/074, TL/116, TL/151, TL/050 and TL/043: Kevin Blades**

The Committee agreed, on the basis of the information presented, to proceed to a Suspension Hearing in terms of Paragraph 11(2)(a) and (c) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The meeting ended at 11.50 a.m.

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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 3**

**20 May 2015**

#### **Licensing Committee**

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**Subject:** **Civic Government (Scotland) Act 1982: Licensing Matters**

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**Purpose:** To advise the Committee of (a) Hearings to be determined; (b) applications for the grant or renewal of licences and permits; and (c) issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982.

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**Recommendation:** That the Committee considers and determines the matters before it.

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#### **1. Introduction**

- 1.1 In terms of the Civic Government (Scotland) Act 1982, the Council, as Licensing Authority, requires to determine issues in respect of the grant, renewal or suspension of licences.
- 1.2. A meeting of a local authority is open to the public except to the extent that they are excluded (whether during the whole or part of the proceedings) under:
  - (a) the rule about 'confidential information' (as defined) or
  - (b) by Resolution.

(Local Government (Scotland) Act 1973, Section 50A, and especially Subsection 50A(4)).
- 1.3. Under the Resolution procedure, the Committee is entitled to resolve to exclude from the Meeting the press and the public for any one or more items of business on the grounds that otherwise "Exempt Information" of any type described in Part 1 of Schedule 7A to the Act might be disclosed.

- 1.4. The types of "Exempt Information" which may arise during Committee business include those described in Paragraphs 14 and 15 of that Schedule:

14. "Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."

15. "The identity of a Protected Informant" (where "Protected Informant" is defined in Part III to mean a person who informs the Local Authority about a past, present or future crime, breach of statutory duty, breach of planning control, or nuisance.)

- 1.5. Such a Resolution, once made, continues until the end of the Meeting unless the Committee earlier Resolves to revoke it.

## **2. Current Position**

### **Appendix A:**

Licences where Hearings have been convened;

### **Appendix B:**

Applications for the grant or renewal of licences and permits; and

### **Appendix C:**

Issues in respect of existing licences.

## **3. Proposals**

- 3.1 It is proposed that the Committee considers and determines each of the listed cases in accordance with the required procedures.

## **4. Implications**

Financial Implications

- 4.1 There are possible financial implications in relation to the refusal of any application.

Human Resource Implications

- 4.2 None

Legal Implications

- 4.3 There are possible legal implications in relation to the refusal of any application.

Equality Implications

4.4 None

Environmental and Sustainability Implications

4.5 None

Implications for Key Priorities

4.6 None

**5. Consultations**

5.1 Consultations have been undertaken with Police Scotland, Strathclyde Fire and Rescue, and the appropriate Council Services.

**6. Conclusion**

6.1 The Committee is requested to consider and dispose of the matters before it.



ELMA MURRAY  
Chief Executive

Reference : PAT

For further information please contact William O'Brien, Solicitor (Licensing)  
on 01294 324302

**Background Papers**

None



<b>Hearings</b>		
<b>Hearing 1</b>	<b>Public Charitable Collection</b>	<b>PCC (New)</b>
<b>Applicant and Address</b>	<b>Kilwinning Community Events</b> Donald Reid 6 Gladstone Road Saltcoats KA21 5LD	Application outwith policy
<b>Date of Collection</b>	Thursday 5th November 2015 5.00pm - 8.30pm	
<b>Hearing 2</b>	<b>Public Charitable Collection</b>	<b>PCC (New)</b>
<b>Applicant and Address</b>	<b>North Ayrshire Cancer Care MacMillan Nurses</b> Heather Campbell 20 Robertson Crescent Saltcoats KA21 5JD	
<b>Hearing 3</b>	<b>Public Charitable Collection</b>	<b>PCC (New)</b>
<b>Applicant and Address</b>	<b>Royal British Legion Largs Branch</b> Philip Chinery 8 Morris Street Largs KA30 9HR	
<b>Hearing 4</b>	<b>Public Charitable Collection</b>	<b>PCC (New)</b>
<b>Applicant and Address</b>	<b>Royal British Legion Largs Branch</b> Philip Chinery 8 Morris Street Largs KA30 9HR	
<b>Hearing 5</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01470 (Renewal)</b>
<b>Licenceholder and Address</b>	Kerr <b>Chapman</b> 24 Wheatley Road Saltcoats KA21 6ET	

<b>Hearing 6</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01885 (New)</b>
<b>Applicant and Address</b>	Peter <b>Brown</b> 211 Glasgow Street Ardrossan KA22 8JT	
<b>Hearing 7</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01957 (New)</b>
<b>Applicant and Address</b>	Mathew <b>Lamont</b> 29 Old Caley Road Irvine KA12 0BF	



Applications for Licences/Renewal of Licences		
Type of Licence/Reference Number	Details of Applicant	Comments
<b>SHDL/176 (Renewal)</b>	<b>Duskview Sales Ltd</b> Duskview Garage Dunlop Road Barrmill Beith KA15 1HN	Police objection received
<b>TDL/00380 (New)</b>	David MacKie <b>MacLeod</b> 15D Warner Street Stevenston KA20 3LB	Police observation received and non disclosure
<b>TDL/00937 (New)</b>	Carolyn Ann <b>Wright</b> 76 Rubie Crescent Irvine KA12 8HB	Police observation received and non disclosure
<b>TDL/01295 (New)</b>	Paul <b>Cumming</b> 25 McMillan Crescent Beith KA15 1BP	Police observation received and non disclosure
<b>TDL/01963 (New)</b>	Ryan <b>Kerr</b> 58 Overtoun Road Springside KA11 3BD	Police objection received and non disclosure
<b>TDL/01965 (New)</b>	Rashid <b>Kamran</b> 35A Witch Road Kilmarnock KA3 1EP	Outwith Council Policy

<b>TDL/01968 (New)</b>	Alasdair <b>Drummond</b> 9 Milgarholm Avenue Irvine KA12 0EP	Police observation received
<b>TDL/01969 (New)</b>	Colette <b>McCreadie</b> 44 Hillpark Rise Kilwinning KA13 6QR	Police observation received

Issues in Respect of Existing Licences		
<b>Case 1</b>	<b>Street Trader Employee's Licence</b>	<b>STL/E/260</b>
<b>Licenceholder and Address</b>	David <b>Hastings</b> 113 Craufurdland Road Kilmarnock KA3 2HX	
<b>Duration of licence</b>	01/10/14 - 30/09/17	
<b>Case 2</b>	<b>Taxi Driver's Licence</b>	<b>TDL/00905</b>
<b>Licenceholder and Address</b>	Suzann <b>McLaughlin</b> 55 Forde Crescent Stevenston KA20 4HZ	
<b>Duration of licence</b>	01/08/12 - 31/07/15	



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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 4**

**20 May 2015**

#### **Licensing Committee**

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**Subject:** **Civic Government (Scotland) Act 1982: Taxi Fare Review**

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**Purpose:** To continue the Taxi Fare Review.

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**Recommendation:** That the Committee:

- (a) review the current scale and approve in draft the scale set out in the Appendix to this report;
  - (b) instruct the Chief Executive to give public notice of that draft;
  - (c) continue consideration of the Review until a further meeting of the Committee at least one month after that public notice has been given.
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### **1. Introduction**

1.1. In terms of the Civic Government (Scotland) Act 1982, the Council as Licensing Authority is required to review the maximum fare that taxis operating within North Ayrshire may charge. The 1982 Act requires that this should be done at maximum intervals of eighteen months.

1.2. The Act lays down a sequence of stages for the review. Accordingly, when the Committee met on 4 March 2015 they adopted the following scheme:

Stage (a) Meeting with taxi trade representatives/taxi operators to discuss proposals, consider revisions and finalise draft tariff - To be arranged

Stage (b) Licensing Committee meeting to approve finalised draft tariff and seek authority to advertise proposed tariff in local press - Wednesday 20th May 2015

Stage (c) Advertise proposals and invite representations - As soon as possible thereafter

Stage (d) Licensing Committee meeting to consider representations and to fix new scale - Wednesday 12th August 2015

Stage (e) Notification to Trade - within 7 days of (d)

Stage (f) Advertise new Scale - As soon as possible, subject to any appeal

1.3. It should be noted that the fares approved by the Committee are maximum fares which may be charged and it is open to operators to discount these rates if they so wish. While it is obligatory to review fare levels periodically, there is no obligation to alter the existing fares.

1.4. Once the fares have been reviewed, taxi operators have a right of appeal to the Traffic Commissioner for the Scottish Traffic Area, should they disagree with the Council's decision.

## **2. Current Position**

2.1. The Committee held the Stage (a) meeting with interested parties on Monday 21 April 2015.

2.2. The meeting on 20 May 2015 is Stage (b). The Committee are to review the current scale and propose a new draft scale. This new scale is only a draft, as it will be advertised publicly (Stage (c)) and then the Committee will meet again (Stage (d)) to consider the draft and any public representations, and then fix the scale.

2.3. In preparing a draft scale, the Committee may consider:

- (a) the current scale;
- (b) the views of the Trade expressed at the Stage (a) Meeting;
- (c) scales in other adjoining Councils; and
- (d) general economic indicators.

2.4. On (c): there are two indices produced by the Office of National Statistics, the "Consumer Price Index" and the "Retail Price Index". The CPI is currently used by the U.K. Government, but there is no obligation on the Council to follow either Index.

2.5. The Council is not obliged to alter the fares at all. The Council's obligation is to review the fare scale, to consult with interested parties and to consider representations.

- 2.6 At the date of preparing this Report (12 May 2015) the most recent figures from the Office of National Statistics were to March 2015, and showed an annual U.K. inflation rate of almost zero. The Indices are:

(a) Consumer Price Index

Current Taxi Scale (10 March 2014) = 127.7

Most recent Index (March 2015) = 127.6

(b) Retail Price Index

Current Taxi Scale (10 March 2014) = 240.0

Most recent Index (March 2015) = 241.9

### **3. Proposals**

- 3.1. The Committee may take the opportunity afforded by the Review of Fares to consider the format of the NAC tariff. No other Council has the same tariff structure as NAC, and since some things for which NAC has a specific tariff have no equivalent in other Council scales, it is not always easy to compare figures with those of other Councils.
- 3.2 The Committee is invited to consider whether or not the current NAC system is unduly complicated, particularly bearing in mind:
- the tariff card displayed in hire cars requires to use a small type-face to accommodate the quantity of text, and may not be easy for passengers to read.
  - the NAC tariff system may not be easy to understand.
- 3.3 If a simpler Fare Scale is adopted, the overall amount of text can be reduced, allowing the type-face to be larger and easier to read and understand.

### **4. Implications**

#### **Financial Implications**

- 4.1. The taxi fare structure has substantial implications for both the Trade and the community. In addition, legal costs to the Licensing Authority may arise if the fare review becomes subject to an appeal to the Traffic Commissioner.

#### **Human Resource Implications**

- 4.2. None.

### **Legal Implications**

- 4.3. Possible appeal to the Traffic Commissioner.

### **Equality Implications**

- 4.4. None.

### **Environmental Implications**

- 4.5. None.

### **Implications for Key Priorities**

- 4.6. Setting fares at a level which balances the needs of taxi operators and passengers and is likely to maintain the level of service provision is consistent with the NA CPP Single Outcome Agreement.

## **5. Consultations**

- 5.1 No consultations with neighbouring authorities are required although information about their fare tariffs will be considered, along with representations from taxi operators and the general public. Information drawn from the Retail Price Index and Consumer Price Index has also been considered.

## **6. Conclusion**

- 6.1 The Committee is requested to approve in draft the proposed scale, and to continue the review process to a future Meeting to allow for public notice and representations.



ELMA MURRAY  
Chief Executive

Reference : Reference : WOB/GEN17

For further information please contact William O'Brien, Solicitor (Licensing)  
on 01294-324345

### **Background Papers**

None



## Possible draft scale:

### North Ayrshire Council Maximum Taxi Fares effective from Monday 2 November 2015

#### **Tariff 1 (Day)**

All journeys starting or ending in the period 07.00 a.m. to 12.00 p.m. (midnight) (except where Tariffs 2 or 3 apply):

***Initial Charge - For a distance not exceeding 1,320 yards (¾ of a mile) (or waiting time not exceeding 10 minutes) - £2.60.***

***Additional Charge: Each additional 1/17 of a mile (about 104 yards) or additional waiting time of up to 25 seconds - 10p.***

#### **Tariff 2 (Nights, Sundays and across zones)**

All journeys (except where Tariff 3 applies):

- starting or ending in the period 12.00 p.m. (midnight) to 07.00 a.m., or
- starting or ending at any time on Sundays, or
- from the zone for which the vehicle is licensed to another zone in North Ayrshire

***Initial Charge: For a distance not exceeding 1,320 yards (¾ of a mile) (or waiting time not exceeding 10 minutes) - £3.00***

***Additional Charge: Each additional 1/18 of a mile (about 98 yards) or additional waiting time of up to 25 seconds - 10p.***

The Tariff 2 charge applies as soon as the journey starts, and it does not change if part of the journey is inside the Night Period, Sunday or Zone and part outside.

#### **Tariff 3 (Festive Periods)**

All journeys starting or ending in the periods

- between 00.01 on 24 December and 7.00 a.m. on 26 December
- between 00.01 on 31 December and 7.00 a.m. on 2 January

***Double Tariff 1 Charges (Initial and Additional).***

### **Extra Charges**

1. If the vehicle starts by carrying more than 4 passengers, the charge is charged as Tariff 1, 2 or 3 (as appropriate) but with 50% added (Tariffs 4, 5 or 6). The higher Tariff applies until the hire ends, whether or not any of the passengers leave the vehicle earlier.
2. Soiling Charge - £35.

### **Notes**

1. The fare scale applies only to journeys which end within North Ayrshire. Fares for journeys beyond the Council area should be agreed between the passenger and the driver before the start of the journey.
2. Luggage shall be carried free if it is of a size which can reasonably be accommodated in the car.
3. The metered charge is the maximum which can be charged. The driver can always charge less.
4. The Tariff 2 or 3 fares apply as soon as the journey starts, and it do not change if only part of the journey is inside the Night Period, Sunday, Zone or Festive Period.

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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 5**

**20 May 2015**

#### **Licensing Committee**

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**Subject:** **Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8**

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**Purpose:** To inform the Committee of Landlord Registration matters.

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**Recommendation:**

1. That the Committee should decide whether or not to make a Resolution excluding the public from the meeting at which this Report and its Schedules is to be considered;
2. For each Application or Review Proposal described in the Schedules: that the Committee should consider each case and:
  - (a) decide whether or not the Application should be granted, or the Relevant Person should be removed from the Register;
  - (b) if refusing or removing, decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of any house referred to in the Application or Registration, or to delegate authority to the Clerk to issue such a Notice.

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#### **1. Introduction**

- 1.1. The Licensing Committee have delegated authority from the Council to administer the Council's functions under the Landlord Registration Scheme regulated by the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.
- 1.2. The persons named in the attached Schedules are either Applicants for Registration, or are already Registered, under the 2004 Act (each person has one Schedule). The rented houses concerned are listed in the Schedules. In this Report, both
  - (a) Applicants seeking Registration, and
  - (b) People who are already Registered ("Registered Persons"), are called "Landlords".

### Exempt Information

- 1.3. Landlord Registration cases are referred to the Committee using two documents:
  - (a) this Report, and
  - (b) one or more Schedules.
- 1.4. This is done because the Committee may consider that the cases involve "Exempt Information" under the Local Government (Scotland) Act 1973, Schedule 7A, so that information about the cases should not be disclosed to the public. The Committee are entitled, but not obliged, to make a Resolution excluding the public from a meeting during consideration of an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of that item of business there would be disclosure to them of "Exempt Information" (Section 50A(4)).
- 1.5. Since the Committee have frequently made the necessary Resolution in the past, it is permissible for future Schedules to be withheld from publication. Although a Committee's Agenda and connected Reports are generally to be made public, publication of the Schedules to this Report (but not the Report itself) has been withheld under Section 50B(2), as the proper officer is of the opinion that they relate to items which are likely not to be open to the public, i.e. that the Committee are likely to make a Resolution to exclude the public during consideration of the Schedules.
- 1.6. Accordingly, individual cases do not appear on the public agenda. The Report operates as a 'front page', and only appears once, regardless of how many individual cases are being referred to the Committee. The Report is general and sets out the legal structure. The Schedules detail the alleged facts of the particular cases and how the legislation appears to apply.
- 1.7. Depending on the circumstances of the individual case, the Schedules contain:
  - (a) information about the Landlord's criminal convictions or their prosecution; and/or
  - (b) information that suggests that he is not a 'fit and proper' person by reason of his conduct in relation to alleged Anti-Social Behaviour; and/or
  - (c) information that suggests that he is not a 'fit and proper' person by reason of his breach of the legal obligations on Landlords; and/or
  - (d) information about conduct involving nuisance or crime (whether or not there have been any criminal Court proceedings).

- 1.8. The information is covered by one or other or both of the following categories of "Exempt Information" under Schedule 7A:

Paragraph 14: *"Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."*

Paragraph 15: *"The identity of a Protected Informant."*

- 1.9. "Protected informant" is defined in Part III of the Schedule and means:

*"a person giving the Local Authority information which tends to show that -*

- (a) a criminal offence,*
- (b) a breach of statutory duty,*
- (c) a breach of planning control, within the meaning of section 123(1) of the Town and Country Planning (Scotland) Act 1997, or*
- (d) a nuisance,*

*has been, is being or is about to be committed".*

- 1.10. For example, Paragraph 15 would apply where it was alleged:

- (a) that there was anti-social behaviour committed by the Tenant of a rented house, involving crime or nuisance, or
- (b) that the state of repair of the rented house indicated that the Landlord had defaulted in his legal obligations, or
- (c) that the Landlord had defaulted in another obligation applying to Landlords, or
- (d) that any person had committed a criminal offence (whether or not there had been concluded Court proceedings).

- 1.11. Accordingly, if a Resolution is made the publicly-accessible Minutes:

- (a) must exclude so much of the proceedings during which the public were excluded (Section 50C); but
- (b) shall include a summary of the proceedings without disclosing the 'Exempt Information' (Sections 50C(2) & 50C(1)(b)).

- 1.12. Although the Schedules have not been published, in each case the individual Landlords have been given appropriate copies and notice of the Committee Meeting.

## The Landlord Registration Scheme

- 1.13. The general rule is that a person wishing to let out a house must be Registered with the Council. Registration lasts 3 years. A person must re-apply within that time to remain Registered - Registration is not automatically renewed. The requirement to be Registered is subject to many exceptions, e.g. lets to family-members do not require Registration.
- 1.14. The Act specifies conditions which Landlords must meet. One of these conditions is that the Landlord is a 'fit and proper person' (Section 84(3)(c)). The considerations which are relevant to this question are set out by the Act.
- 1.15. Once a Landlord has been Registered, the Council is entitled to review the Registration. If not satisfied that the 'fit and proper' condition for Registration is met, the Council is obliged to remove Registration (Section 89).
- 1.16. If a Landlord rents a house without being Registered, or if Registration is removed, two things can happen:
  - (a) the Council may issue a Notice under Section 94 (often called a 'Rent Penalty Notice' or 'RPN'), meaning:
    - (i) the Tenant ceases to be liable for rent (but otherwise the Lease continues, so the Tenant remains in occupation and cannot be evicted for non-payment, and the Landlord remains responsible for repairs); and
    - (ii) any Housing Benefit stops being paid.
  - (b) the Landlord can be prosecuted for a criminal offence under Section 93(1). The penalty is a fine up to £50,000.

In addition, if Registration is removed, the Landlord can be prosecuted if he tries to obtain a new Tenant, e.g. by advertising the house for letting, or discussing terms with a prospective Tenant: Section 93(2). The penalty is a fine up to £50,000.

## **2. Current Position**

- 2.1 The Clerk has received information set out in the Schedules. This information suggests that there may be a basis for the Committee concluding that the Landlord is not 'fit and proper', and that either the Application should be refused or the Registration already granted should be removed.

## **3. Proposals**

- 3.1. The Committee should consider each case and decide whether or not to grant the Application, or remove the Registration.

- 3.2. If the Committee decide to refuse an Application, or to remove a Registration, and if they are satisfied that the house is presently occupied by a Tenant, they should then decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice' or 'RPN') in respect of any house referred to in the Application or Registration.
- 3.3. If they are not so satisfied, they may delegate authority to the Clerk to issue a RPN if and when the Clerk is so satisfied. Given that there would be nothing to stop the Landlord receiving Housing Benefit even if he was unregistered, the Committee may wish to delegate authority to the Clerk to issue a RPN if the Clerk later receives information that any house which is currently covered by the Registration is occupied by a Tenant.

#### **4. Implications**

##### Financial Implications

- 4.1 If a RPN is issued, the Housing Benefit Office will be informed, so that the Landlord will no longer receive Housing Benefit.

##### Human Resource Implications

- 4.2 None.

##### Legal Implications

- 4.3 Where the Council makes any decision to refuse or revoke Registration, to make a RPN, or to refuse to recall a RPN, the Landlord may appeal by Summary to the Sheriff or the First Tier Tribunal.

If the Council issues a RPN, only the Tenant's liability to pay rent will cease. The other rights and obligations of the Lease will be unaffected: Section 94(3) & (8).

For example:

- (a) the Tenant will continue to have whatever security of tenure he already had (he cannot be evicted for non-payment of rent where that non-payment is due to the RPN);
- (b) the Landlord will only be entitled to evict the Tenant if the Sheriff grants a Decree;
- (c) the Landlord continues to have repairing obligations.

If a RPN is revoked by the Sheriff or Tribunal on appeal by the Landlord, the Tenant only has to pay 'arrears' of rent if, and to the extent, ordered. If a RPN is revoked by the Council then 'arrears' are not due (Section 95(3)).

#### Equality Implications

- 4.4 None.

#### Environmental Implications

- 4.5 None.

#### Implications for Key Priorities

- 4.6 None.

#### Community Benefit Implications

- 4.7 Preventing unfit Landlords from operating may contribute to the wellbeing of the community. Preventing Housing Benefit being paid to unregistered Landlords safeguards public funds.

### 5. Consultations

- 5.1 No consultations are appropriate. Depending on the circumstances, the Schedules contain information supplied by the Police, NAC Departments, or other agencies.

### 6. Conclusion

- 6.1 The Committee is invited to take the actions recommended.



ELMA MURRAY  
Chief Executive

Reference : WOB/GEN09

For further information please contact William O'Brien, Solicitor (Licensing) on 01294-324345.

#### Background Papers

Schedules (not to be published - Local Government (Scotland) Act 1973, Section 50B(2))